

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

JEFFREY M. JASKOL AND STACEY J.
JASKOL, Individually and On Behalf Of All
Others Similarly Situated,

Plaintiffs,

vs.

XYBERNAUT CORPORATION, EDWARD G.
NEWMAN, STEVEN A. NEWMAN, THOMAS
D. DAVIS, BRUCE C. HAYDEN, and GRANT
THORNTON LLP,

Defendants.

Case No. 1:05-cv-268 (SLR)

**STIPULATION AND [PROPOSED]
ORDER EXTENDING TIME FOR
DEFENDANT TO ANSWER OR
OTHERWISE RESPOND**

IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned parties and/or their counsel for the respective parties, as follows:

1. Drinker Biddle & Reath, LLP is authorized to accept on behalf of defendant Thomas D. Davis, and does hereby accept, service of the summons and complaint in this action without prejudice and without waiver of Thomas Davis's defenses except as to sufficiency of service of process;
2. The time for Thomas Davis to move, answer or otherwise respond to the complaint in this action is hereby extended to and including forty-five (45) days after the later of: (a) the Court's selection of a lead plaintiff pursuant to §21D(a)(3) of the Securities Exchange Act of 1934, 15 U.S.C. §78a, *et seq.*, as amended by the Private Securities Litigation Reform Act of 1995 (the "PSLRA"), or (b) the date on which an amended complaint, if any, is served upon counsel for Thomas Davis.

Dated: 5/31, 2005

**MILBERG WEISS BERSHAD
& SCHULMAN LLP**

By:


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--and--

**MILBERG WEISS BERSHAD
& SCHULMAN LLP**

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Facsimile: (212) 868-1229

Plaintiffs' Counsel

SO ORDERED.

Dated: _____, 2005

Dated: May 31, 2005

DRINKER BIDDLE & REATH, LLP

By:


William T. Quillen (#179)
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--and--

DRINKER BIDDLE & REATH, LLP

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Counsel for Defendant
Thomas D. Davis

United States District Judge

WEISS & LURIE

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551 Fifth Avenue
New York, New York 10176
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(212) 682-3010 (Fax)

Plaintiffs' Counsel

SO ORDERED.

Dated: _____, 2005

United States District Judge